COMMITTEE ON ACADEMIC FREEDOM  
AND  
COMMITTEE ON FACULTY WELFARE  

PATRIOT Act Resolution

To the Academic Senate, Santa Cruz Division:

Introduction
In October 2001, Congress passed Public Law 107-56, the United States [law to] Provide Appropriate Tools Required to Intercept and Obstruct Terrorism (PATRIOT) Act put forward by the Bush administration. The Legislation has been controversial, and over 250 communities around the nation have passed resolutions against the law. Ironically, only a few universities have formally opposed the infringement on civil liberties.

The Committee on Academic Freedom (CAF), joined by the Committee on Faculty Welfare (CFW), decided to bring to the Senate for consideration a resolution to state our objections to the PATRIOT Act and related legislation and to strengthen the safeguards of our academic freedom and civil liberties. We looked to our sister campuses and found that Berkeley was preparing a resolution. The Berkeley resolution appeared to lack clarity and thus be unsuitable for UCSC. We enlisted the help of the American Civil Liberties Union (ACLU) who supplied us with a template. We then began the long process of consultation with other Senate committees and with individual faculty members and administrators. The resolution you see before you is the result of the input and wisdom of 50 to 100 of members of the UCSC Senate.

Some people suggested that we should put forward a short and broad statement of principled objection to the PATRIOT Act in plain and simple English. After much debate, we decided to continue with the longer, detailed resolution. We believed that the short, broad affirmation would lack substance. It would not surprise anyone, after all, that a group of academics does not like the PATRIOT Act. And, more importantly: merely stating that we don’t like it would do nothing to protect us from actual encroachments on academic freedom and civil liberties, on our campus.

We have modified the ACLU model resolution considerably to suit it to UCSC, but the basic strategy of the resolution is one worked out by the ACLU. The primary strategy, outlined in the resolution, is to refuse to cooperate with federal authorities seeking to gather information about faculty, students, or campus employees, as far as it is legal to do so, but to stay clearly within the limits of the law. The government has a right to go on fishing trips, that is, to launch investigations without any clear suspects; but local authorities (cities, police departments, university administrations) also have the right to refuse to cooperate in providing information. The right of local authorities to refuse to provide information ends if a federal agent produces a court order that specifies an individual or individuals about whom there are grounds for suspicion. At that point, the university administrator or other local authority has to hand over the requested information. The strategy of the resolution is to state UCSC’s intent to protect academic freedom and civil liberties by refusing to provide information when it is not legally required to do so.
We have checked with several authorities to be sure that we are not asking anything of our administration that is illegal. Ms. Cynthia Vroom, Esq. works in the Office of the President of the University and is the member of the legal staff who is responsible for the University’s response to the PATRIOT Act. She objects to nothing in the current resolution. Mr. Chuck Piotrowski is the UCSC Director of Information Assets and University Archivist, and he, too, has not found any objection to the way in which we phrase our resolution. The ACLU lawyers have also vetted the resolution.

The resolution that we have proposed was put, in draft form, before the systemwide Committee on Academic Freedom (UCAF), which expressed its support for our efforts and passed the following resolution:

“Be it resolved that the University of California Senate Committee on Academic Freedom supports efforts in the UC Senate and on UC campuses to implement safeguards against potential threats to civil liberties and academic freedom posed by the PATRIOT Act and related acts of government legislation.”

Why are so many constituencies in the university opposed to the PATRIOT Act? The reason is that the PATRIOT Act and other proposed federal legislation and policies such as the Clear Law Enforcement for Criminal Alien Removal (CLEAR) Act (H.R. 2671), the International Studies in Higher Education Act (HR 3077), and the Computer Assisted Passenger Prescreening System II (CAPPS II) curtail civil liberties in ways that are unprecedented in the United States. The PATRIOT Act authorizes the indefinite incarceration of non-citizens based on mere suspicion and the indefinite incarceration of citizens designated by the President as "enemy combatants" without access to counsel or meaningful recourse to the federal courts. The PATRIOT Act limits the traditional authority of federal courts to curb law enforcement abuse of electronic surveillance in anti-terrorism investigations and ordinary criminal investigations. It expands the authority of federal agents to conduct searches in which the subject of the search warrant is unaware that his or her property has been searched. It grants law enforcement and intelligence agencies broad access to personal medical, financial, library and education records with little judicial oversight. It permits the FBI to conduct surveillance of religious services, internet chatrooms, political demonstrations, and other public meetings of any kind without having any evidence that a crime has been or may be committed. We believe that the PATRIOT Act also encourages racial profiling by subjecting people to special scrutiny based on their race, ethnicity, religion or country of national origin.

The resolution is long because it calls for specific actions, and for the refusal to take action under specific conditions. It is written in legalistic language so as to ensure that it remains within the law. CAF and CFW hope that you will read the resolution with care and come to the May 21 Senate meeting prepared to engage in thoughtful discussion of our rights and our responsibilities.

RESOLUTION

Whereas, the faculty of the University of California, Santa Cruz are proud of the University's long and distinguished tradition of protecting the civil liberties of its faculty, students, and employees;
Whereas, threats to U.S. security are genuine, but indiscriminate attacks on civil liberties under the PATRIOT Act and related legislation fail to enhance security;

Whereas, the University of California, Santa Cruz has a diverse population, including foreign-born and international faculty and students, whose contributions are vital to the culture, character, and learning environment of our University;

Whereas, the preservation of civil rights and liberties is essential to the well-being of a democratic society and an academic environment;

Whereas, the preservation of academic freedom and open debate is essential to the well-being of the academic community;

Whereas, federal, state, and local governments as well as University Administrations should protect public safety without impairing constitutional rights or infringing on civil liberties;

Whereas, federal policies adopted since September 11, 2001, including provisions in the PATRIOT Act (Public Law 107-56) and related executive orders, regulations and actions threaten fundamental rights and liberties, chilling constitutionally protected speech and driving a wedge between communities and those that protect them;

Whereas, more than 250 communities and universities throughout the country have enacted local resolutions and/or policies reaffirming support for civil rights and civil liberties in the face of post 9/11 government policies that threaten these values;

THEREFORE BE IT RESOLVED that the Academic Senate of the University of California, Santa Cruz:

1. Affirms its strong support for fundamental constitutional rights and its opposition to federal measures that infringe upon rights guaranteed by the Constitution.
2. Affirms its strong support for the rights of all faculty, students, and employees and opposes measures that single out individuals for legal scrutiny or enforcement activity based on their race, religion, ethnicity, gender, age or country of origin.
3. Calls upon the Chancellor to enact policy that directs the Campus Police Department (or Security Guards) and any other UCSC department or instrumentality to:
   a. refrain from participating in a Joint Terrorism Task Force unless and until above court order is produced;
   b. refrain from disclosing any information about a student, faculty member, or campus employee to federal, state, or local law enforcement without notice and approval from the director of the campus police. The director shall provide such approval only if the information is already public, or a valid court order is produced;
   c. seek adequate written assurances from federal authorities that UCSC faculty who are placed in federal custody will not be subjected to military detention; secret detention; secret immigration proceedings; or detention without access to counsel, and refrain from assisting federal authorities in obtaining custody of such individuals absent such assurances, unless a valid court order is produced;
d. refrain from engaging in the surveillance of individuals or groups of individuals based on their participation in activities protected by the First Amendment, such as political advocacy, the practice of a religion, unless a valid court order is produced;
e. refrain from racial profiling;
f. refrain, whether acting alone or with federal, state, or local law enforcement officers, from collecting or maintaining information about the political, religious or social views, associations or activities of any individual, group, association, organization, corporation, business or partnership unless such information is kept in the ordinary course of business, or unless a valid court order is produced;
g. provide advance or simultaneous notice of the execution of a search warrant to any UCSC student, faculty member or employee whose property is the subject of such a warrant, and refrain from participating in a joint search with any law enforcement agency absent assurances that such notice will be provided to such individuals during the search, unless a valid court order is produced which instructs that the person not be notified;
h. refrain from the practice of stopping members of the campus community for the purpose of scrutinizing their identification documents without particularized suspicion of criminal activity;
i. report to the University administration any request by federal authorities that, if granted, would cause agencies of the University of California, Santa Cruz to exercise powers or cooperate in the exercise of powers in apparent violation of any University ordinance or the laws or Constitution of this State or the United States.

4. **Calls upon** the Chancellor of the University of California, Santa Cruz to enact policy that directs relevant bodies at the University of California, Santa Cruz to provide immediate notice to individuals whose education, library, or other records have been obtained or examined by law enforcement agents unless prohibited from doing so by statute or court order.

5. **Calls upon** the Chancellor of the University of California, Santa Cruz to enact policy that directs all libraries at the University of California, Santa Cruz to post in a prominent place within the library a notice to library users as follows: "WARNING: Under Section 215 of the federal PATRIOT Act (Public Law 107-56), records of the books and other materials you borrow from this library may be obtained by federal agents. That federal law prohibits librarians from informing you if records about you have been obtained by federal agents. Questions about this policy should be directed to: The Attorney General, Department of Justice, Washington, DC 20530 ".

6. **Calls upon** the Chancellor of the University of California, Santa Cruz to enact policy that directs all bookstores and other entities that maintain business records of purchases on the UCSC campus to post in a prominent place within the store a notice to patrons as follows: "WARNING: Under Section 215 of the federal PATRIOT Act (Public Law 107-56), records of the books and other materials you purchase from this store may be obtained by federal agents. That federal law prohibits storeowners from informing you if records about you have been obtained by federal agents. Questions about this policy should be directed to: The Attorney General Department of Justice, Washington, DC 20530 ".

7. **Calls upon** the Chancellor of the University of California, Santa Cruz to enact policy that directs all computer laboratories or other public computer terminals on the UCSC campus to post in a prominent place within the laboratory or terminal a notice to computer users as follows: "WARNING: Under Sections 214, 216 and 505 of the federal PATRIOT Act (Public Law 107-56), records of your computer use and certain information about the emails you send or websites you visit may be obtained by federal agents. That federal law prohibits
the University from informing you if such information has been obtained by federal agents. Questions about this policy should be directed to: The Attorney General, Department of Justice, Washington, DC 20530”.

8. **Calls upon** the Chancellor of the University of California, Santa Cruz to encourage all libraries to dispose of records of book borrowing and internet use on a regular basis, and for all bookstores and other entities that keep records of borrowing or purchase to destroy those records as soon as they are no longer necessary, and to refrain, whether acting alone or with federal, state or local law enforcement officers, from collecting or maintaining records of purchases or borrowing unless legally required to do so by a court order for a specific individual and, under those circumstances, to maintain them only for that individual and only for the duration specified in the court order.

9. **Calls upon** the Chancellor of the University of California, Santa Cruz to enact policy that directs the University administration to seek periodically from federal authorities the following information in a form that facilitates an assessment of the effect of federal anti-terrorism efforts on UCSC faculty, students, and employees:
   a. the names of all UCSC faculty, students, and employees who have been arrested or otherwise detained by federal authorities as a result of terrorism investigations since September 11, 2001; the location of each detainee; the circumstances that led to each detention; the charges, if any, lodged against each detainee; the name of counsel, if any, representing each detainee;
   b. the number of search warrants that have been executed without advance or contemporaneous notice on the UCSC campus without notice to the subject of the warrant pursuant to section 213 of the PATRIOT Act;
   c. without disclosing the names of specific surveillance targets or other specific investigative information, the extent of electronic surveillance carried out on the UCSC campus under powers granted in the PATRIOT Act;
   d. without disclosing the names of specific surveillance targets or other specific investigative information, the extent to which federal authorities are monitoring political meetings, religious gatherings or other activities protected by the First Amendment within the UCSC campus;
   e. the number of times education records have been obtained from UCSC under section 507 of the PATRIOT Act;
   f. the number of times library records have been obtained from UCSC under section 215 or 505 of the PATRIOT Act;
   g. the number of times that records of the books or other merchandise purchased by store patrons, or any other customer records, have been obtained from UCSC under section 215 and section 505 of the PATRIOT Act;
   h. the number of times records of computer use have been obtained from UCSC under Sections 214, 216 and 505 of the federal PATRIOT Act.

10. **Calls upon** the Chancellor of the University of California, Santa Cruz to enact policy that directs the University Administration to transmit to the Chancellor no less than once every semester a summary of the information obtained pursuant to the preceding paragraph and, based on such information and any other relevant information, an assessment of the effect of federal anti-terrorism efforts on UCSC faculty, students, and employees; and further directs the Administration to publish reports of their findings each quarter so that faculty, students, and employees can be fully informed about such activities on the campus or to be informed of the federal government’s refusal to disclose information about such activities.
11. **Calls upon** the Chancellor of the University of California, Santa Cruz to enact policy that directs the University Administration to provide the Chancellor, no less than once every semester, an accounting of all students, faculty and staff who have been unable to enter the US and/or assume their studies or teaching functions due to denial of visas. Said report should also contain an analysis of the financial and programmatic implications of the loss of these students, faculty and staff. The Administration should publish these reports each quarter so that students, faculty and employees can be fully informed about the impact of post 9/11 federal actions on our community.

12. **Calls upon** the Chancellor of the University of California, Santa Cruz to enact policy that directs the University Administration to notify promptly the Santa Cruz Division of the University of California Academic Senate if it becomes aware that publication of any faculty or student research carried out on campus has been suppressed or otherwise restricted by the federal government for security or political reasons, unless prevented by a valid court order.

13. **Instructs** the Administration of UCSC to transmit a copy of this new policy statement to Senator Barbara Boxer, Senator Dianne Feinstein, and Representative Sam Farr, accompanied by a letter urging them to work to repeal provisions of the PATRIOT Act and other laws and regulations that infringe on civil rights and liberties such as the US VISIT Program, the proposed International Studies in Higher Education Act, CLEAR Act, and the CAPPSS II program, and to support legislation that seeks to end racial profiling, protect immigrants, and restore our liberties such as the Security and Freedom Ensured (SAFE) Act (S. 1709).

14. **Instructs** the Administration of UCSC to transmit a copy of this new policy statement to Governor Schwarzenegger, appropriate members of the State Legislature, President Bush and Attorney General Ashcroft, accompanied by a letter urging them to ensure that anti-terrorism laws and policies be implemented in a manner that does not infringe on civil liberties.

15. **Instructs** the Administration of UCSC to transmit a copy of this new policy statement to other Universities in the California system with a letter urging the faculty senates of those other Universities to enact similar policy statements.

The UCSC Academic Senate requests a written response from the Chancellor by the beginning of the Fall Quarter, 2004, on each of the actions that he has been called upon to undertake, and, if this has not been done, the reason.

Respectfully submitted,

**COMMITTEE ON ACADEMIC FREEDOM**

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**COMMITTEE ON FACULTY WELFARE**

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